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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/621,750

07/17/2003

Darin W. Buchtel

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07/11/2008

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EXAMINER

MCCORMICK, GABRIELLE A

ART UNIT

PAPER NUMBER

3629

MAIL DATE

DELIVERY MODE

07/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|---|--|---------------------------------------|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 10/621,750 | Applicant(s) BUCHTEL ET AL. | |
| | Examiner GABRIELLE MCCORMICK | Art Unit 3629 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/John G. Weiss/
 Supervisory Patent Examiner, Art Unit 3629

Continuation of 11. does NOT place the application in condition for allowance because: Applicants arguments were considered but not persuasive.

With regard to claims 1, 6 and 15, applicant argues that Kotter does not disclose "ascertaining through research with customer of the organization desired characteristics for the organization from a customer perspective". The Examiner points to several citations in Kotter which refer to customer input: companies rely on customers to bring unwanted information regarding a competitive position (pg. 60; para. 7); customer-satisfaction surveys (pg. 60; para. 8); and inclusion of a customer on a guiding coalition (pg. 62; para. 4). It is old and well known to use customer satisfaction surveys to ascertain "desired characteristics". Further, the direct involvement of a customer with the leadership set up to guide the change would also provide research from the customer perspective for desired characteristics. Applicant's disclosure provides that this "ascertaining" can be from "a voice of the customer study". (P[0022]). Again, customer surveys are understood to comprise a customer study.

Applicant argues that Kotter does not disclose "employing the leadership of the organization to define cultural characteristics for the organization using, at least in part, the desired characteristics ascertained through research with the customers of the organization". The Examiner disagrees. Kotter discloses an Eight Step transformation process. Step 1 used feedback from customers and surveys as discussed above to identifying crises and major opportunities (pg. 61). Step 2- 5 involve implementation steps that include creating leadership for the change process (as it stems from step 1, the leadership is directed to the crises and opportunities discovered in step 1, such as the "desired characteristics".) Kotter discloses a cultural change project (i.e., cultural characteristics defined based on desired characteristics) (pg. 63; para. 4); treating people fairly (pg. 64; para. at top of page) and executives (i.e., leadership) who "walk the talk" to become a symbol of the new corporate culture. (pg. 64; para. 3).

Kotter provides a disclosure for "defining by leadership...the cultural characteristics in behavioral terms": "in successful cases of major change (executives) learn to "walk the talk." They become a living symbol of the new corporate culture." (pg. 64; para. 3).

Kotter further, in Step 4, communicates the vision and strategies and teaches new behaviors. (pg. 61). The introduction of Attenello teaches the additional step of validating the vision, strategies and new behaviors using a focus group.

Applicant's additional arguments regarding claims 6 and 11-14 are not persuasive .